

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

KEITH R. RIOS,  
Petitioner,

v.

MONTEREY COUNTY DEPARTMENT  
OF SOCIAL AND EMPLOYMENT  
SERVICES,

Respondent.

Case No. [15-cv-03147-VC](#) (PR)

**ORDER DISMISSING WITH  
PREJUDICE PETITION FOR WRIT OF  
HABEAS CORPUS**

Re: Dkt. Nos. 3, 4

Petitioner Keith R. Rios is a state prisoner incarcerated at Avenal State Prison. He has filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging an order of the Monterey County Superior Court terminating his parental rights under the California Welfare and Institutions Code. Rios' motion for leave to proceed *in forma pauperis* is granted. He also moves for the appointment of counsel, which is denied.

Federal law opens two main avenues to relief on complaints related to imprisonment: a petition for habeas corpus, 28 U.S.C. § 2254, and a complaint under the Civil Rights Act, 42 U.S.C. § 1983. *Hill v. McDonough*, 547 U.S. 573, 579 (2006). Challenges to the lawfulness of confinement or to particulars affecting its duration are the province of habeas. *Id.* A challenge to the circumstances of an inmate's confinement may be brought under § 1983. *Id.*

Because Rios is challenging a state court order terminating his parental rights and is not challenging the lawfulness or duration of his confinement in prison, his claims are not cognizable in a federal habeas proceeding. Therefore, this action must be dismissed. Because amendment would be futile, the action is dismissed with prejudice.<sup>1</sup>

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<sup>1</sup>Rios previously challenged the same state court proceeding in a federal civil rights action, which was dismissed on November 28, 2011. *See Rios v. Nady, et al.*, Case No. C 11-4860 PJH (PR), ECF Dkt. No. 11.

1 Further, a certificate of appealability is denied. Rios has not shown "that jurists of reason  
2 would find it debatable whether the district court was correct in its procedural ruling." *Slack v.*  
3 *McDaniel*, 529 U.S. 473, 484 (2000). Rios may seek a certificate of appealability from the Ninth  
4 Circuit Court of Appeals.

5 This order terminates docket numbers 3 and 4. The clerk shall enter a separate judgment  
6 and close the file.

7 **IT IS SO ORDERED.**

8 Dated: July 22, 2015



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VINCE CHHABRIA  
United States District Judge

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

KEITH R. RIOS,  
Plaintiff,

v.

MONTEREY COUNTY DEPARTMENT  
OF SOCIAL AND EMPLOYMENT  
SERVICES,  
Defendant.

Case No. [15-cv-03147-VC](#)

**CERTIFICATE OF SERVICE**


I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 22, 2015, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Keith R. Rios ID: AG0877  
Avenal State Prison 330-23-1L  
PO Box 903  
Avenal, CA 93204

Dated: July 22, 2015

Richard W. Wieking  
Clerk, United States District Court

By:   
Kristen Melen, Deputy Clerk to the  
Honorable VINCE CHHABRIA